

Application No.: 10/672581

Case No.: 57135US004

REMARKS

Claims 4, 5, and 8 have been allowed. Claim 24 has been canceled. Claim 2 has been amended. Claims 2 – 5, 7, 8, 10 – 23, and 25 are pending in the application. Examination and reconsideration of the claims, as amended, are respectfully requested.

Claim 2 has been amended to incorporate the subject matter of former claim 24 therein, using the identical wording of allowed claim 8. The Office Action has designated claim 24 as containing allowable subject matter if rewritten to overcome the ODP rejection(s) and if it includes the limitations of its base claim.

Examination and reconsideration of the application, as amended, are requested.

Claim Rejections – Double Patenting

Claims 2, 11-16, 18, 19, and 23 – 25 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 63 of copending Application No. 09/990,601.

Applicants have reviewed copending Application No. 09/990,601 which is commonly owned with the instant patent application. The instant application is a divisional application that was filed as a result of a restriction requirement in the parent application USSN 09/990,601. All method claims were subject to restriction and were withdrawn from consideration when the restriction requirement was made final. Applicants traversed the restriction requirement in an Amendment and Response under 37 CFR 1.111 that bears a certificate of mailing dated May 19, 2003. Although the pending claims in the instant application have been amended during prosecution to incorporate additional subject matter therein, in essence they claim the same subject matter as the method claims originally presented in the parent application. If the parent application was deemed by the USPTO to contain method claims that were a separate and distinct invention, and if the filing of the present divisional application was necessitated by a restriction requirement that was made final, it would seem proper that no obviousness – type double patenting rejection over the parent application be issued. It is submitted that the ODP rejection(s) should be withdrawn.

However, to further prosecution in the instant patent application, Applicants will offer to file a terminal disclaimer in compliance with 37 CFR 1.321(c), if it is deemed necessary, and in

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the event copending parent patent application USSN 09/990,601 goes to issue at an earlier date than the instant patent application.

Claim Rejections – 35 U.S.C. 103

Claims 2, 3, 7, 10, 11, and 13 – 22 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Perez et al. (US Pat. No. 5,709,948) in view of Nodera et al. (Pub. No.: US 2002/0115789).

Perez et al. relates to semi-interpenetrating polymer networks of epoxy and polyolefin resins, methods therefore, and uses thereof. Perez et al. fails to disclose non-halogenated flame retardants present in the epoxy/polyolefin polymer network composition nor do they disclose such compositions as useful for producing shipping or storage containers.

Nodera et al. disclose thermoplastic resin compositions and their injection moldings. Injections moldings for shipping and storage containers are not disclosed.

The Office Action has designated claim 24 as allowable if rewritten to overcome the OPD rejection(s) and to include all the limitations of the base claim and all intervening claims.

In accordance with the suggestion in the Office Action (see *Allowable Subject Matter*) claim 2 has been amended by incorporating therein the subject matter of claim 24, now making it clear that a storage or shipping container is formed from the thermosetting resin/polyolefin resin composition in the method of the claim.

As amended, claim 2 discloses a method for producing a composition comprising a combination of thermosetting resin and polyolefin resin and requires that the article produced from the thermosetting resin/polyolefin resin be a storage or shipping container.

It is submitted that Perez et al. even in combination with Nodera et al. fail to disclose the present invention method for producing the instant storage or shipping container.

It is further submitted that all claims dependent on, or ultimately dependent on, claim 2 (i.e., claims 3, 7, 10 – 22, and 24) are in also in condition for allowance.

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Conclusion

It is submitted that in view of the amendments to the claims, the arguments presented relating to non-obviousness, and the arguments relating to OPD rejection(s) and offer to file a terminal disclaimer if necessary, all rejections and objections have been overcome. Examination and reconsideration of the application, as amended, are requested. Allowance of claims 2-5, 7, 8, and 10-23, and 25 at an early date is solicited.

Applicant's attorney, Lorraine Sherman, acknowledges with thanks the telephone interview kindly accorded her by Examiner Feely on May 11, 2006. Claim 2 was discussed as was the double patenting rejection. The Examiner was favorably disposed towards the amendment to claim 2 and stated he would further review the rules on ODP issues.

Respectfully submitted,

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By: Eloise J. Maki
Eloise J. Maki, Reg. No.: 33,418
For Lorraine R. Sherman, Reg. No. 30,105
Telephone No.: 651-737-8459 or (952)-935-4942

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833